

JEFFERSON COUNTY COMMISSIONERS
COURTHOUSE, BOX H
BOULDER, MT 59632
PHONE 406-225-4025
FAX 406-225-4148

TOM LYTHGOE, CHAIR

KEN WEBER

DAVE KIRSCH

**PROCEEDING OF THE BOARD OF COMMISSIONERS
COUNTY OF JEFFERSON, STATE OF MONTANA
August 25, 2009**

Present: Commissioners Lythgoe, Weber and Kirsch; Harold Stepper, County Planner; Lynn Moon and Jeff Miller, RMDC; Tara Mastel, JLDC; Jan Anderson, *Boulder Monitor/Jefferson County Courier*; Ed Betka, Susan Hartman, Mike Gilles, Jackie Colombe, Leslie Thomas, Anna Nash, Richard and DeDe Rhodes, Mark Niemeir, Matt Burgan, Bill Hagman, Forrest Klies, Nona Alyea, James Culbert, Brett and Teresa Nance, Ed and Elaine Bauer, Myles and Janet Sagen, Dustin Farnum, Lynn Price, Gary Spaulding, Debby Dils, Lucy and Terry Jeffrey, Bruce Giulio, Brian Carver

MINUTES

Commissioner Weber moved to approve the minutes of July 21. Commissioner Kirsch seconded. The motion carried.

Commissioner Weber moved to approve the minutes of August 18. Commissioner Lythgoe seconded. The motion carried.

CORRESPONDENCE

Commissioner Weber read a letter from the DNRC regarding a grant to Marks Lumber for a joint timber harvest/fire mitigation project on state lands in the Clancy area. DNRC is requesting feedback; the Commission will send a letter of support.

Commissioner Lythgoe noted the receipt of a protest letter from Jeff and Leslie Alley regarding the MSTI project. The letter will be attached to the minutes.

Commissioner Lythgoe noted the receipt of an additional petition from residents of Forest Park Estates, this one in opposition of the formation of the RID/RMD. He stated that the Commission will look at both petitions to determine if the county will move forward with the project.

Commissioner Weber read a letter from Lewis and Clark County regarding HB130 crisis intervention grant program funds. They are suggesting that Meagher, Jefferson, Broadwater and
August 25, 2009 minutes.wpd

Lewis and Clark develop a four-county plan and submit one grant application for the available funds. Commissioner Lythgoe stated that he has been playing phone tag with the Lewis and Clark grant administrator. When they finally connect, he will let her know that Jefferson County is interested in joining the four-county plan.

Commissioner Lythgoe stated that for informational purposes – RID/RMD on Martinez Gulch – received bids for the project the previous Friday. Bids were received from Jim Connor Grading, Gruber Excavating, Lowry Excavating and Helena Sand and Gravel. The bid packets were given to the engineer, who will attend the next meeting with a recommendation on how to proceed.

CALENDAR REVIEW

8/26 Solid Waste Safety meeting - 8:00
MACo Centennial planning meeting - Helena - 11:00
JLDC - 2:00
8/27 Zoning Commission - 4:00
9/01 Road Safety meeting - 7:00
Library subcommittee meeting - Clancy - 6:00

COMMISSION REPORTS

INTEROPERABILITY

Commissioner Weber reported on the interoperability meeting he attended in Butte on Wednesday. They are trying to get input on sustainability once the infrastructure is built, they are working on grants, and this has been going on for years. Most of the work has been done by Sally Buckles or Sheriff Doolittle. One of the ways discussed to keep this sustainable is user fees, and also tapping into fees paid on telephones and cell phones. Commissioner Weber stated that the main point he made was that while interoperability within Montana makes sense, it still has to work for local jurisdictions. One thing that has been an issue is the Boulder Hill site, and this has been an issue both for them and for us. It sounds like Sheriff Doolittle and Interoperability Montana have reached a consensus, and IM will be paying to install that.

METAL MINES LOAN PROGRAM

Commissioner Weber reported that the loan committee reviewed a loan application from the Whitehall Pool Pals. Pool Pals would like to buy off their current loan at the local bank with a metal mines loan. There were a lot of questions and concerns, so no decision has yet been made.

DUI TASK FORCE

Commissioner Kirsch reported that on the 18th he met with the DUI Task Force in Whitehall. They have put up a sign on the interstate.

BIG BOULDER HOUSING

Commissioner Kirsch reported that on Wednesday and Thursday he met with RMDC to interview architects for the Big Boulder housing re-build. On Thursday afternoon he attended

the regular RMDC meeting.

BOULDER SKATE PARK

Commissioner Kirsch reported that on Saturday he attended the Boulder skate park dedication. He said that this project has been a long time in the making, and a lot of work has gone into making the park a reality. It was a very nice dedication.

SUBDIVISION REVIEW

FINAL PLAT REVIEW – MILLIGAN CANYON MINOR SUBDIVISION

Harold Stepper, County, presented his staff report on this minor subdivision located adjacent to Milligan Canyon Road. The proposed subdivision is a single lot minor subdivision which will divide the tract of land containing over 160 acres into two lots ranging in size from 1.25 acres to over 160 acres. The purpose of the subdivision is to create a parcel for an emergency services building.

Harold recommended that final plat approval be granted.

Commissioner Weber moved to grant final plat approval. Commissioner Kirsch seconded. The motion carried.

REQUEST FOR TIME EXTENSION – SUNLIGHT BUSINESS PARK MAJOR SUBDIVISION

Harold presented his staff report for the third time extension for the Sunlight Industrial Park located outside of Whitehall. Harold noted that the architectural and engineering studies for the site have taken longer than anticipated due to scheduling difficulties with the contractor. He recommended that the time extension be granted.

Commissioner Weber moved to grant the time extension. Commissioner Kirsch seconded. The motion carried.

ITEMS FOR COMMISSIONERS ACTION OR REVIEW

PUBLIC HEARING – COMMUNITY DEVELOPMENT NEEDS

Jeff Miller, RMDC Community Development, gave some background on RMDC. Jeff stated that they have seen the growing need for affordable housing. He gave the Commissioners the results of a 2005 community needs assessment gathered through a random phone survey done in three counties, with 307 residents of Jefferson County. Jeff outlined the results of the survey and also touched on demographic trends with an expectation of population growth. Jefferson County is expected to grow by 75% in the next ten years.

Jeff stated that for more than seven years they have been trying to bring resources to upgrade the Big Boulder housing. RMDC has decided to replace the buildings rather than to try to upgrade the existing structures. They asked for \$6.9 million, and were granted the full amount. They are

still pursuing a HOME grant and possibly a CDBG. They will be very public with the process and plan to hold public meetings, and the architects want to have planning meetings with residents.

Commissioner Weber asked about the survey and if there is any way to track where the responses came from. Jeff said that he believes that the information is available, although he doesn't have it with him.

The Commission presented a letter of support for the project to Jeff.

Tara Mastel, JLDC Manager, stated that AYA employs about 30 people and they have a waiting list of people that want to attend their program but need additional staff. She feels that the availability of affordable housing in Boulder is a part of the reason that they are having problems with staffing. She also noted that the county is actively pursuing the placement of a veteran's home in Jefferson County and if that were to materialize, they would need more affordable housing in Jefferson County. It is common knowledge that there is a shortage of affordable rental housing in particular in Boulder. She stated that 33% of the housing stock within the Boulder city limits is mobile homes, and 97% of those mobile homes were built before 1980 and therefore were not built to fire code. Tara stated that the community of Boulder came together and formed the Boulder Housing Advisory Board in 2006, and the City and County signed a joint agreement recognizing that board as the official advisory board for the county and the city. At that time the board did an assessment of their own as well as a survey of seniors. Two and three bedroom dwellings were found to be most desirable. The JLDC has to date written two letter of support for this program.

Lynn Moon, a Boulder Resident, stated that she would like to encouraged the Commission to look at preserving existing housing stock within Jefferson County, rehabilitate unsafe and substandard home, remove properties that are beyond rehab, and to support zoning that makes sense for Jefferson County. She would encourage the Commission to support all affordable housing projects, if they are for affordable rentals or first-time home buyers, and to continue to partner when possible with non-profits and other local governmental entities to seek funding sources.

PUBLIC HEARING – CREATION OF SOUTH HOLMES GULCH MAINTENANCE DISTRICT

Commissioner Lythgoe stated that there really is no need for a public hearing on this issue. He stated that the district has been protested out, so the district will not be formed. Commissioner Weber read the certificate from the Clerk and Recorder, which outlined the three methods for tabulating the protests.

Commissioner Lythgoe stated that if any one of the three methods of tabulation is over 50%, then the district does not go forward. Commissioner Lythgoe stated that as critical as some people have been of this process, which is instituted by Montana law, this shows that the process works.

Anna Nash stated that she appreciates the process, but she would like to make a comment so that

people might understand what they have to deal with. The concern came about this year when they had a very sick family member, and having ambulance and fire access in the winter can be challenging at times. She stated that she spoke to Rick Abraham with the Montana City VFD and he told her that if the road is not sufficiently plowed or there is a vehicle stuck in the road, they will make one attempt to access their homes. If they can't make it through, then their area will not be serviced. This is her major concern. Her hope is that the County will continue to help with access issues.

Miles Sagan stated that he bought his property in 1991 and he is glad to see people in Montana still have some common sense. This is country.

Terry Jeffrey said that his question is why the county can't provide some minimal maintenance with existing tax dollars. He asked why the Commission can't budget for that. Commissioner Lythgoe said that they will look at that, but the reason that they have implemented the process of creating RIDs is that the county doesn't have sufficient funds in the road department budget to take care of the 700 miles of road in the county. There are roads with a high degree of maintenance and roads with no maintenance. There is a little over \$1 million dollars in the road budget to maintain roads in Jefferson County. If he looks at his tax bill, his total bill is about \$2,500. Seventy-five percent of that goes to the state and the schools. The county only gets twenty-five percent of that \$2,500, and of that \$60 goes to the road department. The point that he is trying to make is that the county doesn't have enough money to maintain all of the roads and citizens have never passed a mill levy for roads in the history of the county. There is growth in the area, so they may need to discuss increasing the level of maintenance.

Lucy Jeffrey said that she thinks it is unfortunate that when they did South Hills Road, this portion of South Holmes Gulch was not included. If they had been able to divide the costs between hundreds of owners, it would have been much more acceptable. She believes that something more needs to be done with the road, but she doesn't want to pay for it. Commissioner Lythgoe stated that they understand that and they did look at including more area into the South Hills RID. One of the problems with Martinez and Holmes Gulch is that they are not collectors. People live on these roads and they go up into the hills, but they aren't collectors and they need to have criteria established as to what they look at when these districts are developed. In looking at that criteria, Martinez and Holmes Gulch fell off the list. Lucy asked who developed the criteria. Commissioner Weber stated that it is state statute. He stated that when they first started the process, they tried to have larger districts, even to include Jackson Creek Road. However, the criteria kept nailing it down to where they ended up. Commissioner Lythgoe stated that they really did try; they were going to do Quarry, Holmes Gulch, Martinez Gulch. As they tried to put it together, state law kept cutting it down.

Gary Spauling stated that he lives in Helena and owns three lots up there. He would love to live up there and he does use the property for grazing horses. If this had gone through, he would have been assessed for three lots. He feels that the road needs, in addition to material, a culvert and he feels that the county could afford to grade the road when the crew is in the area and put in a culvert.

Janet Sagan said that she would like to know why the improvements fell 285 feet from their driveway. They don't currently live there, but are building. They would still be assessed the fee however, even though the improvements wouldn't have reached their driveway. Commissioner Lythgoe stated that if people live there or not, they will be assessed because they own property. He said that since speaking to her on the phone about the 285 foot shortfall he has ridden horses up there and he couldn't find the driveway when he looked for it.

RESOLUTION 26-2009 RESOLUTION OF INTENT TO CREATE THE SOUTH HOLMES GULCH RMD

Commissioner Lythgoe said that this item will not be addressed as the amount of protests to the formation of the district is already greater than fifty percent.

APPOINT BOARD MEMBERS

Commissioner Weber moved to appoint Gayle Stubblefield to the Library Board. Commissioner Kirsch seconded. The motion carried.

Commissioner Weber moved to appoint Roy Barnes and Ken Weber to the Solid Waste Board. Commissioner Kirsch seconded. The motion carried.

RESOLUTION 22-2009 RESOLUTION OF INTENT TO CREATE THE CATARACT FIRE SERVICE AREA

Ed Betka stated that he has a petition which contains well over 100 signatures of landowners. At the meeting two weeks prior, the Commission reviewed the mapping structure and requested that open areas be closed in and that the service area butt up to existing fire districts. Basin Fire Trustees requested that they be able to petition to add land to the Basin Fire District. He has a copy of a letter that Basin Fire sent out to landowners, which he would like added to the record. There are numerous misstatements in the letter. He would like to move past what has happened in the past. He noted that when a major event happens the entire county will be overwhelmed, as well as the Forest Service; no one department will be able to handle things.

DeeDee Rhodes stated that two weeks ago they were asked to get the signatures needed for annexation of adjacent property into the Basin Fire district. 73 letters were sent out, and of those 60 have been signed and Bonnie is certifying the signatures. During this process, some things came to light. Some citizens feel that they are being forced into a taxation situation when they need no fire protection, and some feel that they were misled as to the status of the Basin Volunteer Fire Department. They also checked on the status with the Cataract Volunteer Fire Company being registered with the state. When she called there were five entities in the area that were registered non-profits. Cataract Volunteer Fire Company was not one of the five.

Commissioner Weber said that the big concern to him is the statement "the County Commissioners have decided that your property will be annexed into either the new Fire Service Area, serviced by Cataract Volunteer Fire Co., owned by Mr. Ed Betka which will be funded through your tax dollars, and assessed to you on your tax bill (the exact dollar amount will be determined after formation of the new Fire Service Area), or the Basin Fire District serviced by the Basin Volunteer Fire Department." Commissioner Weber stated that the County

Commissioners have not made a decision in that direction. The Commissioners have made the statement that they would like to see everyone in a fire protection district, but the statement that “you will be annexed into some district” is false. The formation of this district hasn’t been determined and will be determined by the people who live within that district. The Service Area has the ability to protest out as they saw earlier with the RID/RMD; every district has that opportunity. The statement that the County Commission has decided “you will be” anything is very false for several reasons and he has concerns with that. He wishes that it was not in the letter. DeeDe said that they left the previous meeting with the feeling that it was an either-or situation.

Jim Culbert, Chair of the Board of Trustees for the Basin Fire District as well as a member of the Water and Sewer Board, said that there has never been anything said about people added to the Fire District being required to pay water and sewer district fees to Basin. The original Water and Sewer District was set up with the Fire District boundaries for simplicity. He wasn’t here when that happened, but to have people living that far out of the district paying water fees is probably not something that the Water District would consider.

Bruce Guilio stated that he is concerned with the Fire District and the Fire Service Area. When he bought his property, he was aware that there was no fire protection and he doesn’t need it. He would like to know the bottom line cost; what is it going to cost him if he goes into a fire service area and does he have to belong to it if it is established. His personal opinion is that he doesn’t want anyone’s service. He bought the property knowing that there was no service and any protection he would have to provide.

Forrest Klies asked why the Commission wants to disband the Basin Fire Department. Commissioner Lythgoe said that he doesn’t think that anyone does. Forrest said that he is happy with service and he would like to see the Basin Fire Department stay as it is. Also, everyone who has land up there is covered under the US Department of Agriculture when they pay taxes through the Forest Service. Commissioner Lythgoe stated that there has never been any intent to disband the Basin Volunteer Fire Department; they don’t have the authority to do that. Forrest asked if this is the case, what Mr. Betka is proposing. Commissioner Weber said that it wouldn’t impact the Basin Fire District at all. It wouldn’t replace anything, it is adding something new. Commissioner Lythgoe stated that under Montana law, Mr. Betka has the right to form a fire service area if he wishes. He has signatures on a petition, and if people in the area choose to do so, then it can happen.

Brett Nance said that it was a valid point made by Commissioner Kirsch regarding having enough hands available. He has no problem with Mr. Betka and they get along fine. Personally, it has been a pleasure working with the Basin Volunteer Fire Department, especially over the past six months. They have been having training and building a cohesive group. Commissioner Lythgoe stated that the Commission is very supportive of volunteer fire departments. They have been very fortunate in Jefferson County over the past few years, especially with the amount of bug kill, that the starts that we have had have been put out quickly.

Mark Niemeir stated that he just recently found out about this. He was under the impression that

there was no fire coverage where he lives. He was fine with that at the time, but with all of the beetle kill it is just a matter of time. He is in favor of coverage, but he questioned the cost of starting a new area versus just beefing up the existing district. Commissioner Weber stated that if he has a house it will be \$10 a year; the per-acre fee is if there is just bare ground. If you don't want the service area to form and own property within it, you will have the opportunity to protest out. The majority of the people who own property within the proposed service area must be in favor of this for it to go forward. Commissioner Lythgoe stated that these are fees that are put forth in state statute. The action today does not form the service area; it starts the process to form the service area. The Commission is not going to force anything. However, they would be tickled if everyone in Jefferson County had some sort of coverage.

Ed stated that the service area will be getting \$300,000 worth of equipment at no charge, which is why the fees are at the bare minimum.

Jackie Colombe stated that Montana Code said that you need 30 signatures for a fire service area. However, the code is grey in relation to service area as opposed to being black and white for the formation of a fire district. There are a lot of people that don't want any protection, and she questioned if they would be included in the service area. After looking at the map, it was determined that these people will be included within the boundaries.

Forrest Klies stated that he has a friend who flies over the area for the national forest. There are no roads in a large portion of proposed service area and the only way that a fire could be fought in the area is with fire bombing or smoke jumpers.

Jim Culbert asked what the proposed budget is, noting that they had heard that it was about \$4,400. He can't fathom how the service area could be run for that. Commissioner Weber stated that it is his understanding that there is a private benefactor that will be making up the difference. The identity of the benefactor was questioned but no answer was given.

Susan Hartman, Basin Fire Trustee, said that Basin Fire has responded to any calls that happened outside of their boundaries, and they haven't charged the people that live there. They aren't gaining any benefit by the fire service area being formed. Commissioner Lythgoe stated that the point is that Mr. Betka has a petition signed by an adequate number of people under the law that wish to have this service area formed. They as a Commission need to respond to that; they are obligated to respond to that. They can't just say that they aren't going to consider the petition. Susie stated that the Commission encouraged Ed to expand his border, to give him more land. It appears that they are very much encouraging him and they left the last meeting believing that those areas would become part of the Basin Fire District or they would become part of the Cataract Fire Service Area. That seemed to be what most people gathered from that meeting; that the Commission would like to see those areas covered. Commissioner Weber stated that the Commission would like to see that. They would like to see the entire county with fire protection. They are not forcing anybody into any district. They will not, they cannot, they aren't trying to. They aren't forcing Basin Fire to bring forward an annexation petition. If they choose to as a district, the Commission will follow the code and they will act accordingly. Susan said that the fire district was given two weeks, if she remembers correctly. Commissioner Weber said that

they weren't "given" anything; the Commission said that they wouldn't act on the petition before them for two weeks so that they could discuss the boundaries that are up on the far west side of the proposed service area. They want to see everything covered in some way. Commissioner Lythgoe said that the Commission didn't give the Basin Fire District two weeks to do anything; they gave Mr. Betka two weeks to respond to their request to close up the gap in the middle of the proposed fire service area. If the Basin Fire District came away from that meeting thinking that they had two weeks to do whatever they decided to do, they were hearing the Commission wrong or the Commission did not speak clearly. They were not requesting that the Fire District do anything in two weeks. Jackie stated that Commissioner Weber did request that they find out how many residents in the area would rather be in the Basin District.

Richard Rhodes stated earlier that the county doesn't have enough money to maintain roads. He asked if the county plans to plow roads to make this area accessible. If the county doesn't, he can't understand the principle of having this service area if it isn't accessible. Also, is it in the best interest of the county if they allow an area that has a bare minimum of personnel to respond to a fire. Commissioner Lythgoe stated that his response is that if it isn't accessible to Mr. Betka and his company, it isn't accessible to Basin Fire either, so he can't see how that relates to anything. He further stated that no, they aren't going to, because this service area is formed, they aren't going to be busting in new roads or maintaining new roads that we haven't before. The Commission responding to residents in the area that want to see service area organized. That is what the Commission is responding to and he isn't sure why people are having such an issue with this.

Richard Rhodes stated that he didn't get one of his questioned answered. He asked if it is in the best interest of the county for a bare minimum amount of crew to have this area. Commissioner Weber stated that he believes that it is in the best interest of the county to have people's property in a fire service protection/district, some sort of fire protection service throughout our county. He believes that it is in the best interest of the county to have everybody possible in a protected area.

Commissioner Lythgoe noted the receipt of two letters, one from Greg Overturf and one from Katy James. (letters on file in the Clerk and Recorder's office)

Commissioner Weber moved to adopt Resolution 22-2009. Commissioner Lythgoe seconded. The motion carried.

Commissioner Weber moved to adjourn. Commissioner Lythgoe seconded. The motion carried.

MEETING ADJOURNED

ATTEST:

**BONNIE RAMEY
CLERK AND RECORDER**

TOMAS E. LYTHGOE, CHAIR

KEN WEBER, COMMISSIONER

DAVE KIRSCH, COMMISSIONER